

## THE COURTS.

APPEALS IN THE NICHOLS CASE.  
ARGUMENTS ON BOTH SIDES BEFORE THE SUPREME COURT, GENERAL TERM.

Two appeals in the contest for the reinstatement of Sidney P. Nichols as Police Commissioner were argued, yesterday, before the General Term of the Supreme Court. The first was an appeal by the Mayor from Judge Westbrook's order granting the writ of certiorari, and the second from Judge Westbrook's order vacating the stay of proceedings made by Judge Ingalls and directing the Mayor to return to the writ, John W. Weed, of the firm of Townsend & Weed, counsel for Mr. Nichols, made a preliminary motion for a dismissal of the appeals on the ground that the Mayor by filing the return became estopped from this action. The Court concluded to hear the whole matter before deciding this point. Mr. Bangs argued for the Mayor on the first appeal that the object of the writ of certiorari was to review final judgments of inferior tribunals. The Mayor could not affect the title of Mr. Nichols to his office without the concurrence of the Governor. The Mayor's action could not, therefore, be considered such a judicial action as would give review, but he was entitled to have the custody of the records, and the Mayor was not such estopped. A reversal of the Mayor's act in manually substituting its proceedings to the Governor was a physical impossibility. The Mayor was not a court, because he did not possess the power of judicial review. The second appeal was contended that the same objections applied to it as to the other appeal, that it was made the writ had been issued, and that it showed upon its face an overruling of the first appeal.

A reply in behalf of Mr. Nichols was made by William Atterbury. He said that an appeal from an order of a court of record, even if it was not a court in the discretion of the court, was unusual if not unprecedented. Every question sought to be raised by the appeal could, and properly should, be raised upon the hearing on the return to the writ at the General Term. The appeal was dismissed, and the Mayor was given leave to file his brief again.

The decision of the Court was reserved.

MORE LEGAL TROUBLES ABOUT MONTAUK.

The sale of the Montauk lands proposed for October 22 will be adjourned until after the decision of the Court of Appeals. A partition suit was begun about a year ago for a sale and distribution of the large tract of land owned by the town of Montauk, and the return to motion was denied. It was too late now to have it amended. As to the other order of Judge Westbrook, Mr. Atterbury said that the Mayor acted as a scapegoat, and that his removal was a judgment capable of review by a court.

The decision of the Court was reserved.

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